

When any rate or other charge has been in force for any length of time exceeding one year, and that rate or other charge is advanced by the public utility and the order of the Commission reinstates that such prior rate or other charge, in whole or in part, no suspending order shall be allowed in any case from the reinstating order pending the final determination of the case in the circuit court, or if appealed to the reviewing court, pending the final determination by such reviewing court.

In case the rule, regulation, order or decision of the Commission is stayed or suspended, the order of the court shall not become effective until a suspending bond shall first have been executed and filed with, and approved by the Commission (or approved, on review, by the court) payable to the people of the State of Illinois, and sufficient in amount and security to insure the prompt payment, by the party petitioning for the review, of all damages caused by the delay in the enforcement of the rule, regulation, order or decision of the Commission, and of all moneys which any person or corporation may be compelled to pay, pending the review proceedings, for transportation, transmission, product, commodity, or service in excess of the charges fixed by the rule, regulation, order or decision of the Commission, in case said rule, regulation, order or decision is sustained. However, no bond shall be required in the case of any stay or suspension granted on application, of the state, or of any city or other governmental body. The court in case it stays or suspends the rule, regulation, order or decision of the Commission in any manner affecting rates or other charges or classifications, may, in its discretion, also by order direct the public utility affected to pay into court, from time to time thereto to be impounded until the final decision of the case or into some bank or trust company paying interest on deposits, under such conditions as the court may prescribe, all sums of money which it may collect from any corporation or person in excess of the sum such corporation or person would have been compelled to pay if the rule, regulation, order or decision of the Commission had not been stayed or suspended.

Amended by P.A. 82-783, Art. IV, § 40, eff. July 13, 1982.

For repeal of Act, see note preceding § 1 of this chapter.

76. Reparation for overcharges—Refunds for incorrect billings—Investigations

§ 72. When complaint is made to the Commission concerning any rate or other charge of any public utility and the Commission finds, after a hearing, that the public utility has charged an excessive or unjustly discriminatory amount for its product, commodity or service, the Commission may order that the public utility make due reparation to the complainant therefor, with interest at the legal rate from the date of payment of such excessive or unjustly discriminatory amount.

When a customer pays a bill as submitted by a public utility and the billing is later found to be incorrect due to an error either in charging more than the published rate or in measuring the quantity or volume of service provided, the utility shall refund the overcharge with interest from the date of overpayment at the legal rate or at a rate prescribed by rule of the Commission. Refunds and interest for such overcharges may be paid by the utility without the need for a hearing and order of the Commission.

If the public utility does not comply with an order of the Commission for the payment of money within the time

fixed in such order, the complainant, or any person for whose benefit such order was made, may file in a circuit court of competent jurisdiction a complaint setting forth briefly the causes for which the person claims damages and the order of the Commission in the premises. Such action shall proceed in all respects like other civil actions for damages, except that on the trial of such action the order of the Commission shall be prima facie evidence of the facts therein stated. If the plaintiff shall finally prevail, he or she shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the action.

All complaints for the recovery of damages shall be filed with the Commission within 2 years from the time the produce, commodity or service as to which complaint is made was furnished or performed, and a petition for the enforcement of an order of the Commission for the payment of money shall be filed in the proper court within one year from the date of the order, except that if an appeal is taken from the order of the Commission, the time from the taking of the appeal until its final adjudication shall be excluded in computing the one year allowed for filing the complaint to enforce such order.

The remedy provided in this section shall be cumulative, and in addition to any other remedy or remedies in this Act provided in case of failure of a public utility to obey a rule, regulation, order or decision of the Commission.

The Commission shall have power to receive complaints regarding loss or damage occasioned by a public utility, and to make inquiry as to the methods of adjusting such claims. All claims against any public utility for loss of, or damage to property, or for any other loss or damage, in connection with a public utility service, not covered by the preceding paragraphs of this section, if not acted upon within 90 days from the date of the filing of the claim with the public utility, may be investigated by the Commission, in its discretion, and the results of such investigation shall be embodied in a special report which shall be open to public inspection.

Amended by P.A. 83-345, § 69, eff. Sept. 14, 1983; P.A. 83-629, § 1, eff. Sept. 20, 1983.

For repeal of Act, see note preceding § 1 of this chapter.

P.A. 83-345 substituted "complaint" for "petition" and "action" for "suit" wherever the words occurred; and in the third paragraph substituted "a circuit" for "any" before "court" and substituted "plaintiff" for "petitioner"; and made other technical amendments.

P.A. 83-629 inserted the second paragraph.

Final legislative action, 83rd General Assembly:

P.A. 83-345—June 20, 1983

P.A. 83-629—June 29, 1983

See Ill.Rev.Stat. ch. 1, § 1105 as to the effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

77. Civil damages

§ 73. In case any public utility shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done either by any provisions of this Act or any rule, regulation, order or decision of the Commission, issued under authority of this Act, the public utility shall be liable to the persons or corporations affected thereby for all loss, damages or injury caused thereby or resulting therefrom, and if the